

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Kathy H. Smith
Smith Insurance Agency
4251 Main Street
Loris, South Carolina 29569

File Number 2003-117730.

**Default Order Revoking
Resident Insurance Agent's License**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2002), by the State of South Carolina Department of Insurance upon Kathy H. Smith, a licensed South Carolina resident insurance agent, by both certified mail, return receipt requested, and by regular mail on May 29, 2003.

That letter informed Kathy Smith of her right to request a public hearing upon the allegations of impropriety contained within the letter against her. The letter further warned that her failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, Kathy H. Smith has failed to respond to the Department's letter. On June 30, 2003, therefore, counsel for the Department filed an Affidavit of Default, and submitted the entire matter directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina for several agencies, Ms. Smith continuously failed to remit premiums to the Insurers and to deliver policies to innumerable consumers. As a result, consumers had their policies lapse or cancelled, and their claims for losses/damages denied. These acts, as alleged, are a direct violation of S.C. Code Ann. § 38-43-130 (Supp. 2002). That Code section provides that "the director or his designee may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has willfully deceived or dealt unjustly with the citizens of this State." This Code section goes on in Subsection (1) to describe "deceived or dealt unjustly with the citizens of this state" specifically to include, "misstating the facts in an application for insurance or aiding in the misstatement of facts."

In accordance with my findings of fact, and considering Kathy H. Smith's complete refusal to avail herself of her opportunity to be heard, I now conclude, as a matter of law, that she willfully deceived and dealt unjustly with the citizens of South Carolina, thereby violating S.C. Code Ann. § 38-43-130(1) (Supp. 2002), and that her license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2002). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under

the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2002).

It is therefore ordered that Kathy H. Smith's license to transact business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license, issued through the State of South Carolina's Department of Insurance is to be issued to her.

It is further ordered that a copy of this Order be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Kathy H. Smith is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in dark ink, appearing to read "E. N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar
Director

30 June, 2003, at
Columbia, South Carolina

**Before the State of South Carolina
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4251 Main Street
Loris, South Carolina 29569

SCDOI File Number 2003-117730

Affidavit of Default

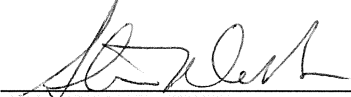
Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

The Department served notice on Kathy H. Smith at the address detailed above and at 5216 N. Little River Neck Road, N. Myrtle Beach, S.C. 29582, by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke her license to act as a resident insurance agent within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2002), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed Kathy Smith of her opportunity, within thirty days, to request in writing a public hearing.

The United States Postal Service effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about May 14 and again on May 29, 2003. Kathy Smith has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. She is now in default.


T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
This 30th. day of June, 2003.



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires May 10, 2009

South Carolina Department of Insurance
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